

F. JOSEPH WARIN (Appearing *Pro hac vice*)
WAYNE A. SCHRADER, SBN 67447
BRADLEY J. LINGO (Appearing *Pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Telephone: (202) 955-8500
Facsimile: (202) 467-0539
FWarin@gibsondunn.com
WSchrader@gibsondunn.com
BLingo@gibsondunn.com

ETHAN D. DETTMER, SBN 196046
SCOTT A. FINK, SBN 83408
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street, Suite 3000
San Francisco, California 94105-2933
Telephone: (415) 393-8200
Facsimile: (415) 393-8306
EDettmer@gibsondunn.com
SFink@gibsondunn.com

ATTORNEYS FOR DEFENDANTS
KUTAK ROCK, LLP AND JOSEPH O. KAVAN

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ANITA HUNTER, an individual; et al.,
Plaintiffs,

v.

CITIBANK, N.A., a Nevada corporation; et al.,
Defendants.

CASE NO. 09-CV-02079-JW

(Related to CASE NO. 07-CV-02795-JW)

Assigned to: Honorable James Ware

**STIPULATION AND [PROPOSED] ORDER
EXCUSING DEFENDANTS KUTAK ROCK,
LLP AND JOSEPH O. KAVAN FROM
RESPONDING TO OR ANSWERING THE
THIRD AMENDED COMPLAINT**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel,
that

WHEREAS Plaintiffs and Defendants Kutak Rock, LLP and Joseph O. Kavan (“the parties”) have reached a Settlement, have executed a binding term sheet, and are preparing a settlement agreement;

WHEREAS the allegations against Defendants Kutak Rock, LLP and Joseph O. Kavan in the Third Amended Complaint were included to facilitate the dismissals and releases relating to the Settlement and to preserve the parties’ rights in the event the Settlement is not consummated or becomes null and void;

WHEREAS the causes of action against Defendants Kutak Rock, LLP and Joseph O. Kavan in the Third Amended Complaint that were dismissed with prejudice by Order of the Court dated February 3, 2010 (*see* Docket 264), were included in the Third Amended Complaint to preserve Plaintiffs’ right to appeal that Order; AND

WHEREAS the Court has previously ordered that Defendants Kutak Rock, LLP and Joseph O. Kavan are not required to comply with any case deadlines (*see* Docket 368), and that Order remains in effect,

Defendants Kutak Rock, LLP and Joseph O. Kavan are THEREFORE excused from responding to or answering the Third Amended Complaint. A proposed order is attached.

DATED: September 14, 2010

By: /s/ Bradley J. Lingo

F. JOSEPH WARIN (Appearing *Pro hac vice*)
WAYNE A. SCHRADER, SBN 67447
BRADLEY J. LINGO (Appearing *Pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Telephone: (202) 955-8500
Facsimile: (202) 467-0539
FWarin@gibsondunn.com
WSchrader@gibsondunn.com
BLingo@gibsondunn.com

ETHAN D. DETTMER, SBN 196046
SCOTT A. FINK, SBN 83408
GIBSON, DUNN & CRUTCHER LLP
555 Mission Street, Suite 3000

San Francisco, California 94105-2933
Telephone: (415) 393-8200
Facsimile: (415) 393-8306
EDettmer@gibsondunn.com
SFink@gibsondunn.com
*Attorneys for Defendants Kutak Rock, LLP and
Joseph O. Kavan*

DATED: September 14, 2010

By: /s/ Michael P. Denver

ROBERT L. BRACE, SBN 122240
MICHAEL P. DENVER, SBN 199279
HOLLISTER & BRACE
P.O. Box 630
Santa Barbara, CA 93102
Telephone: (805) 963-6711

THOMAS G. FOLEY, JR., SBN 65812
ROBERT CURTIS, SBN 203870
FOLEY, BEZEK, BEHLE & CURTIS, LLP
15 W. Carrillo Street
Santa Barbara, CA 93101
Telephone: (805) 962-9495
Facsimile: (805) 962-0722
Attorneys for Plaintiffs and the Class

ANTHONY R. ZELLE, SBN 548141
BRIAN MCDONOUGH, SBN 637999
THOMAS EVANS, SBN 552820
ZELLE MCDONOUGH & COHEN LLP
101 Federal Street, 14th Floor
Boston, MA 02110
Telephone: (617) 742-6520 x219
Facsimile: (617) 742-1393
*Attorneys for Plaintiff Quirk Infiniti, Inc.
and the Class*

ATTESTATION CLAUSE

I, Bradley J. Lingo, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER EXCUSING DEFENDANTS KUTAK ROCK, LLP AND JOSEPH O. KAVAN FROM RESPONDING TO OR ANSWERING THE THIRD AMENDED COMPLAINT. In compliance with General Order 45, X.B., I hereby attest that Michael P. Denver has concurred in this filing.

DATED: September 14, 2010

By: /s/ Bradley J. Lingo

BRADLEY J. LINGO (Appearing *Pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Telephone: (202) 955-8500
Facsimile: (202) 467-0539
BLingo@gibsondunn.com

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
4

5 ANITA HUNTER, an individual; et al.,
6 Plaintiffs,

7 v.

8 CITIBANK, N.A., a Nevada corporation; et al.,
9 Defendants.
10

CASE NO. 09-CV-02079-JW

(Related to CASE NO. 07-CV-02795-JW)

Assigned to: Honorable James Ware

James Ware
[PROPOSED] ORDER EXCUSING
DEFENDANTS KUTAK ROCK, LLP AND
JOSEPH O. KAVAN FROM
RESPONDING TO OR ANSWERING THE
THIRD AMENDED COMPLAINT

11 The Court, after considering the Stipulation Excusing Defendants Kutak Rock, LLP And
12 Joseph O. Kavan From Responding To Or Answering The Third Amended Complaint, hereby
13 **ORDERS** that Defendants Kutak Rock, LLP and Joseph O. Kavan are excused from responding to or
14 answering the Third Amended Complaint.
15

16 PURSUANT TO STIPULATION, IT IS SO ORDERED on this _15th day of September _
17 2010.

18 *James Ware*
19 Honorable James Ware
20 United States District Judge
21
22
23
24
25
26
27
28